

**AURELIO TARAZONA CARVAJAL,
EDUAR HURTADO GARCIA, ELKIN
HUMBERTO GÓMEZ PINTO, FREDY
ALEXANDER HERRERA PICO, JAIRO
ANDRÉS ARDILA PEÑA, JORGE
ELIECER DIAZ GALVIS, WILSON
FABIAN PEÑA CASTILLO, JUAN
DAVID GARCÍA RODRIGUEZ,
*Plaintiffs,***

§ § § § § § § § § § § § § § §

V.

MIJELUM, L.L.C.,
Defendant.

On this day, the Court *sua sponte* considered the above-captioned case. On March 28, 2024, the Court granted Plaintiffs’ Second Motion for Leave to File Plaintiffs’ First Amended Complaint (ECF No. 20). Plaintiffs’ First Amended Complaint (ECF No. 22) was filed on the same day. The First Amended Complaint added claims against two individual defendants, Luis Mucharraz and Leon Mucharraz. *See* Pls.’ First Am. Compl. 1, ECF No. 22. Service of amended complaints is typically governed by Federal Rule of Civil Procedure 5, not Rule 4. *See* Fed. R. Civ. P. 5(a)(1)(B). However, in cases where an amended complaint names a new defendant, the new defendant should be served under Rule 4. *Kaden v. Chamisa Arts, Inc.*, No. EP-15-CV-146-DB, 2016 WL 7616692, at *3 (W.D. Tex. July 15, 2016); *see also Fluor Eng’rs & Constructors, Inc. v. S. Pac. Transp. Co.*, 753 F.2d 444, 449 n.7 (5th Cir. 1985) (“Rule 5(a) service is proper only after a party has appeared in an action.”).

Rule 4 provides that a plaintiff has 90 days from the filing of his or her complaint in which to effectuate proper service. *See* Fed. R. Civ. P. 4(m). If service is not made on a defendant within 90 days, “the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” *Id.* More than 90 days have passed since Plaintiffs filed their First Amended Complaint, but Plaintiffs have not filed any proof of service for Defendants Luis Mucharraz and Leon Mucharraz.

Accordingly, **IT IS ORDERED** that Plaintiffs **SHALL SHOW CAUSE** in writing by **July 31, 2024**, why the Court should not dismiss the claims against Leon Mucharraz and Luis Mucharraz for failure to serve process upon these two defendants.

Plaintiffs are **HEREBY ADVISED** that failure to comply with this Order may result in this dismissal of their claims against Defendants Leon Mucharraz and Luis Mucharraz.

SIGNED this 3rd day of July, 2024.

A handwritten signature in black ink, appearing to read 'R. F. Castañeda', is written above a horizontal line.

ROBERT F. CASTAÑEDA
UNITED STATES MAGISTRATE JUDGE